

August 3, 2018

Mr. John Canoles  
Eco-Science Professionals, Inc.  
P.O. Box 5006  
Glen Arm, MD 21057

Re: Carski Property (1341 Wildwood Beach Road)  
Critical Area Administrative Variance  
Tracking Number 07-18-2750

Dear Mr. Canoles:

The Department of Environmental Protection and Sustainability (EPS) has received your after the fact variance request to impact 197 square feet of the 100-foot buffer for the new construction of a deck. Based on County review, all of the work is considered new impacts because the construction phase of the project was never permitted. The project was issued a non-compliance penalty in accordance with COMAR 27.01.09-2.H and a Critical Area Buffer Management Plan has been approved that provides 4:1 mitigation along with a posted security of guarantee. The property is developed with a house and driveway and is mostly within the 100-foot buffer. The property is within a Limited Development Area (LDA).

The Director of EPS may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure and that literal enforcement of the regulations would result in unwarranted hardship. The property is an existing developed residential property. The 197 square foot deck is connected to a preexisting porch and deck structure attached to the house. The owner used an area that already had an existing foundation. Therefore, the first criterion is met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. This variance would allow for the addition of a deck as other properties are used in the immediate area. A similar variance would be granted to another property owner under similar circumstances. Therefore, this criterion is met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting of this variance will not confer upon the applicant any special privilege that would be denied to other lands or structures within the Critical Area. Addition of an attached deck to an existing dwelling is not special privilege. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. This variance is not based upon conditions or circumstances which are the result of actions by the applicant and/or property owners any longer since the violation penalties were assessed and implemented before variance submittal. Therefore, the fourth criterion has been met.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area regulations. With the mitigation proposed by the applicant and additional substantial buffer plantings, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

Based upon our review, this Department finds that the first four of the above criteria have been met, and that the fifth criterion can be met by mitigating for impacts as outlined in the conditions. Therefore, the requested variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the mitigation proposed by the applicant, the following conditions, and the following note added to all future plans:

1. On August 3, 2018, a variance was granted by Baltimore County Department of Environmental Protection and Sustainability from Chesapeake Bay Critical Area requirements to impact 197 square feet of buffer for an attached deck.
2. Mitigation of 591 square feet through the planting of native trees and shrubs for buffer impacts shall be provided on a revised Critical Area Buffer Management Plan (CABMP) that can be added to the already 788 square feet of plantings as required for building without permits for a grand total of 1,379 square feet. A security shall be required for only the additional 591 square feet, since the security has already been provided for 788 square feet requirements.
3. A portion of the Critical Area buffer shall be recorded as a Critical Area Easement, and must be clearly noted on the revised CABMP. A building permit Exhibit A and corresponding covenants shall be submitted for recordation by September 30, 2018.

Mr. John Canoles  
Eco-Science Professionals, Inc.  
Critical Area Administrative Variance  
August 3, 2018  
Page 3

Critical Area "Do Not Disturb" signs shall be installed at the easement limits. The locations of these signs shall be shown on the CABMP.

4. The revised CABMP must be provided by September 30, 2018. Once approved, a mylar copy must then be submitted.

It is the intent of this Department to approve this variance subject to the above conditions. Changes in site layout may require submittal of revised plans and an amended variance request.

Please sign the statement on the following page and then return the signed, original letter to this Department c/o Ms. Patricia M. Farr of Environmental Impact Review. Failure to return a signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Tom Krispin at 410-887-3980.

Sincerely,

David V. Lykens  
Deputy Director

Enclosure

cc: Ms. M. Claudia Jones, Critical Area Commission

Mr. John Canoles  
Eco-Science Professionals, Inc.  
Critical Area Administrative Variance  
August 3, 2018  
Page 4

We have read and agree to implement the above requirements to bring our property into compliance with Chesapeake Bay Critical Area regulations.

---

Signature

Date

---

Signature

Date

---

Printed Name

Date

---

Printed Name

Date